

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. PCT/IB2005/000733	International filing date (day/month/year) 21.03.2005	Priority date (day/month/year) 26.03.2004
International Patent Classification (IPC) or both national classification and IPC A61K31/345, A61K31/22, A61P3/06		
Applicant WARNER-LAMBERT COMPANY LLC		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:

  
European Patent Office  
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DATE 10-12-05	DATE 01-26-06
FOR Writ. Opn. Response - MAg	FOR Writ. Opn. Response - MAg
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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITYInternational application No.  
PCT/IB2005/000733~~10/594348~~

## Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - a sequence listing
    - table(s) related to the sequence listing
  - b. format of material:
    - in written format
    - in computer readable form
  - c. time of filing/furnishing:
    - contained in the international application as filed.
    - filed together with the international application in computer readable form.
    - furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/IB2005/000733

**Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes:	Claims	1-7,9,13-15
	No:	Claims	8,10-12
Inventive step (IS)	Yes:	Claims	1-7,9,14-15
	No:	Claims	8,10-13
Industrial applicability (IA)	Yes:	Claims	1-15
	No:	Claims	

**2. Citations and explanations**

**see separate sheet**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2005/000733**10/594348****SECTION V**

1. Reference is made to the following documents:

D1: US-B1-6 190 894

D2: WO 02/48325

D1 deals with compositions comprising fluindostatin and  $\beta$ -chloroalanine which are HMG CoA reductase inhibitor and SPT inhibitor, respectively.

D2 deals with the preparation of a medicament for modulating SPT for the treatment of, inter alia, diabetes.

In view of the available prior art the present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 8,10-12 is not new in the sense of Article 33(2) PCT.

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 8,10-13 does not involve an inventive step in the sense of Article 33(3) PCT. The problem to be solved by the present application may be formulated as how to provide a pharmaceutical composition comprising a SPT inhibitor and a second compound. The solution proposed is to provide a second compound which is useful in the treatment of atherosclerosis or dyslipidemia. However said solution has been already provided by D1 and cannot therefore be considered as inventive.